

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

UNITED STATES OF AMERICA,

v.

Criminal No. 5:19-CR-00076-GWC

ARIEL QUIROS, WILLIAM KELLY,
WILLIAM STENGER,

Defendants

CATALOG OF MATERIAL PRODUCED BY THE STATE OF VERMONT
MARKED "PRIVILEGED" OR "CONFIDENTIAL"

As noted in Defendant Stenger's Preliminary Response to the Motions to Quash the subpoenas served on the State of Vermont and Locke Lord, the State of Vermont provided a host of documents marked "privileged" and "confidential" to federal investigators reviewing Jay Peak's EB-5 projects. These materials fall into the following four general categories: (1) email communications between an exclusive group of top state officials¹ charged with overseeing the EB-5 projects; (2) the analysis of data related to those projects by state regulators; (3) Weekly Reports submitted by Vermont

¹ These officials include Governor Peter Shumlin, ACCD Secretary Patricia Moulton, DFR Commissioner Susan Donegan, Governor Shumlin's Chief of Staff Elizabeth Miller, Governor Shumlin's Legal Counsel Sarah London, ACCD General Counsel John Kessler, DFR General Counsel David Cassetty, DFR Deputy Commissioner Michael Pieciak, Vermont Regional Center Director Brent Raymond, Deputy Attorney General Suzanne Young, Assistant Attorney General Jacob Humbert, Governor Shumlin's Chief of Staff Darren Springer, Chief Assistant Attorney General Bill Griffin, Assistant Attorney General Jon Alexander, Scott Coriell, Vermont Regional Center Director Eugene Fullam, ACCD Commissioner Lawrence Miller, Susan Allen, and Assistant Attorney General Megan Shafritz.

department commissioners and agency secretaries to the governor's office; and, (4) the State's preparation for, and response to, Jay Peak litigation in state and federal courts.

1. State email communications

In October 2015, Assistant Attorney General Jon Alexander notified state officials that documents related to Jay Peak's EB-5 projects had to be retained under what state officials referred to as a "litigation hold notice." The litigation hold notice itself is clearly marked "CONFIDENTIAL ATTORNEY-CLIENT PRIVILEGED ATTORNEY WORK PRODUCT." *Ex. 1.*

To date, defense counsel has located and identified the following email communications marked "privileged" or "confidential" and are arranged in chronological order as Exhibit 2:

- B. Raymond to J. Kessler and P. Moulton, 10/31/14
- J. Kessler to S. London, 11/17/14
- E. Miller to P. Moulton and S. London, 11/28/14
- J. Kessler to P. Moulton, B. Raymond, and J. Humbert, 12/18/14
- J. Kessler to S. Donegan, D. Cassetty, P. Moulton, B. Raymond, E. Miller, and S. London, 2/3/15
- S. London to P. Moulton, 2/11/15 and J. Humbert to J. Kessler, S. Young, and P. Moulton, 2/11/15
- J. Kessler to P. Moulton, S. London, and J. Humbert, 2/23/15
- S. Donegan to E. Miller, 3/1/15
- S. Donegan to E. Miller and S. London, 3/6/15
- S. Donegan to E. Miller, 3/8/15
- E. Miller to S. Donegan, 4/3/15
- S. Donegan to E. Miller, 4/6/15
- J. Kessler to J. Humbert and S. London, 4/9/15
- S. Donegan to E. Miller and S. London, 4/11/15
- E. Miller to S. Donegan and S. London, 4/26/15
- D. Springer to S. London, 11/24/15
- S. London to D. Springer and P. Moulton to D. Cassetty, M. Pieciak, S. Donegan, S. London, B. Griffin, S. Young, and J. Kessler, 12/7/15
- S. London to EXE, 4/8/16 and J. Alexander to S. London, 10/9/15
- P. Moulton to S. Donegan, S. Coriell, S. London, and B. Griffin, 4/11/16
- S. London to D. Springer and S. Coriell, 4/19/16

- S. London to EXE, 5/3/16
- E. Fullam to M. Pieciak and P. Moulton, 7/20/16
- D. Springer to S. London and S. Allen, 7/25/16
- P. Moulton to S. London, M. Pieciak, and J. Kessler, 7/25/16
- S. London to D. Springer, S. Allen, and L. Miller, 7/25/16
- S. London to GPS (Governor Peter Shumlin) and M. Shafritz to S. London, 7/28/16
- P. Moulton to S. London and B. Griffin, 8/26/16
- S. London to D. Springer and S. Allen, 8/29/16

2. Analysis of data by State regulators

To date, defense counsel has located and identified the following DFR reports marked “privileged” and are submitted as Exhibit 3:

- DFR Project overview, 32 pages (undated)
- DFR Project Overview, Raymond James Activity, Co-Mingling of Funds (undated)
- QBurke Mountain Resort, Overview of Evidence, (undated)
- DFR Project Overview of Jay Peak Ownership, 19 pages (undated)
- DFR Project Overview, Analysis of Funds (undated)
- DFR Project Overview, 136 pages (undated)
- DFR Overview of Ariel Quiros’s family and business ties with South Korea (undated)

3. Weekly Reports to Governor Shumlin

To date, defense counsel has located and identified the following Weekly Reports addressing the State’s oversight of Jay Peak’s EB-5 projects that are marked “privileged.”

Those reports are arranged in chronological order as Exhibit 4:

- July 13, 2014
- August 2, 2014
- August 24, 2014
- August 31, 2014
- September 27, 2014
- October 12, 2014
- November 23, 2014
- December 12, 2014
- December 19, 2014
- January 25, 2015
- February 6, 2015

- February 13, 2015
- October 10, 2015

4. The State's Preparation for, and Response to, Jay Peak litigation in State and Federal courts

To date, defense counsel has located and identified the following documents, some of which are marked "privileged," that relate to the state legal strategies and are arranged in chronological order as Exhibit 5:

- D. Donegan, Discussion Document, 4/11/1(5?)
- QBurke Project, DFR, 4/13/15
- S. Donegan to D. Cassetty, 6/22/1(5?)
- S. London to L. Miller, 10/9/15
- D. Cassetty to S. London, 10/16/15, Draft Complaint
- S. London to L. Miller, 10/27/15
- S. Donegan to S. London, 4/7/16, Revised Complaint
- J. Alexander, Second Request for preservation of documents, 5/3/16
- M. Pieciak to S. London, 6/15/16
- S. London to Governor Shumlin, 7/28/16
- M. Pieciak to S. London, 9/1/16